RAJARETNAM a/l PALANIANDY v. AMALGAMATED PROPERTIES & INDUSTRIES

[S.C. (Seah, Hashim Yeop A. Sani & Syed Agil Barakbah S.C.JJ.) 9 March & 27 May 1988]

[Kuala Lumpur – Supreme Court Civil Appeal No. 158 of 1986]

Labour Law – Whether labour officer has power to determine the validity of dismissal of an employee by his employer – Employment Act 1955, s. 69(1).

The only question argued in this appeal was whether the labour officer had power under section 69(1) of the Employment Act 1955 to determine the validity of the dismissal of an employee by his employer.

Held: section 69(1) of the Employment Act 1955 does not give any power to the Director-General or labour officer of the Ministry of Labour to question the validity of the dismissal of an employee by his employer.

Case referred to:

(1) *Nylex (M) Sdn. Bhd.* v. *Alias bin Chek* [1985] 1 C.L.J. 185 (folld).

SUPREME COURT.

Karam Singh (*Padma Parvety (Miss)* with him) for the appellant.

M. Nagarajah for the respondent.

Cur. Adv. Vult.

Seah S.C.J. (delivering the judgment of the court): The only question argued in this appeal was whether the labour officer had power under section 69(1) of the Employment Act 1955 to determine the validity of the dismissal of an employee by his employer?

Mr. Karam Singh for the appellant had submitted that the words "any dispute" in section 69(1) of the Employment Act 1955 are not restricted to "wage" dispute but covered all disputes between an employee and his employer including a dispute that this dismissal was without just cause or excuse.

For the respondent, Mr. M. Nagarajah had contended that the phrase "any dispute" should be given a restricted meaning and is limited only to a dispute relating to wages due to an employee arising out of the Employment Act or under a contract of service between such employee and his employer.

In our opinion, section 69(1) of the Employment Act 1955 had been considered and judicially interpreted by Harun J. in the case of *Nylex (M) Sdn. Bhd.* v. *Alias bin Chek*[1] where the learned judge appeared to have construed the phrase "any dispute" in a restricted sense as that suggested by Mr. Nagarajah. This appeal was in effect an attempt by Mr. Karam Singh to try to persuade this court to overturn the decision of Harun J. in the *Nylex* case. We have read the reasons given by the learned judge in his judgment for adopting such a course and with respect, we are in agreement with him that section 69(1) of the Employment Act 1955 does not give any power to the Director-General or labour officer of the Ministry of Labour to question the validity of the dismissal of an employee by his employer.

The appeal is therefore dismissed with costs to the respondent. The deposit to be paid to the respondent on account of taxed costs.

Appeal dismissed.

Solicitors: *Karam Singh Veriah & Co.; Shook Lin & Bok.*

JAAFAR BIN ABU & ANOR. v. PUBLIC PROSECUTOR

[S.C. (Lee Hun Hoe C.J. (Borneo), Wan Suleiman & Wan Hamzah S.C.JJ.) 12 October 1987 & 14 May 1988]

[Kuala Lumpur – Supreme Court Criminal Application No. 23 of 1987]

Criminal Procedure – Appeal – No grounds of judgment available – Whether appeal court can act in revision – Criminal Procedure Code (FMS Cap. 6), ss. 323 to 327 – Courts of Judicature Act 1964, ss. 31 & 66(1).

In this case, the applicants and another person had been charged with an offence under the Prevention of Corruption Act 1961. They were found guilty and convicted and sentenced. The applicants appealed to the High Court but as there were no grounds of judgment available (as the learned President of the Sessions Court who had tried the case had left the service), the learned judge treated the case as a revision case. After hearing arguments, he dismissed the appeal and confirmed the convictions and sentences. The applicants applied to have the following questions of law for the decision of the Supreme Court:

(a) When there is an appeal pending and no grounds of judgment are available, can the High Court act in revision?

(b) If the answer is yes, what is the proper order the learned judge should make.